Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Possible Revision or Elimination of Rules Under the Regulatory Flexibility Act, 5 U.S.C. § 610

COMMENTS OF THE NATIONAL ASSOCIATION OF TELECOMMUNICATIONS OFFICERS AND ADVISORS AND MT. HOOD CABLE REGULATORY COMMISSION

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SUMMARY

The National Association of Telecommunications Officers and Advisors and the Mt. Hood Cable Regulatory Commission reaffirm their earlier comments related to the rules under review and point out that given industry consolidation, most of the "small entities" affected by the rules are in fact local governments, which means that consumers' interests must receive increased attention in the Commission's review.

Emergency alert systems, and rules to ensure that they are ready to function, continue to be needed for small as well as large communities. The program access rules are required to prevent anticompetitive misuse of exclusive programming arrangements, and the terrestrial loophole should be eliminated. Public, educational and governmental (PEG) channels must be protected in any revision of the Commission's carriage rules. The Commission's customer service rules, as supplemented by local rules, are essential to protect consumers, especially in small communities.

Cable franchise transfer rules should be improved to ensure that a community receives all the information it has indicated to be necessary before commencing the 120-day review process, as the statute requires. The horizontal and vertical ownership caps do not appear to apply to small business entities. Local communities' concerns about the rate regulation and effective competition rules, which have been discussed in prior filings, remain significant. Finally, equal employment opportunity rules cannot be dispensed with for small businesses as that term is used here.

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I. INTRODUCTION

In a Public Notice dated May 31, 2005, DA-05-1524 (the "Notice"), the Commission announced that it was seeking comment regarding whether certain of its rules adopted in 1993, 1994 and 1995 should be continued without change, or should be amended or rescinded. The purpose of the review, as explained in the Notice, is "to minimize any significant economic impact of such rules upon a substantial number of small entities." Notice at 1. The Notice also indicated that only a single round of comments would be entertained in this proceeding.

Because there will be no opportunity to file reply comments, the National Association of Telecommunications Officers and Advisors ("NATOA") and the Mt. Hood Cable Regulatory Commission (collectively, the "Local Governments") [1] file these comments not only to address

[1] The National Association of Telecommunications Officers and Advisors (NATOA) is a national association that represents the communications needs and interests of local governments. The membership is predominantly composed of local government agencies, local government staff and public officials, as well as consultants, attorneys, and engineers who consult with local governments on their communications needs. Government members have responsibilities that range from cable administration, telecommunications franchising, right-of-way management and governmental access programming to information technologies and I-Net planning and management. NATOA's membership also includes not-for-profit organizations

certain of the Commission's rules directly, but also in anticipation of comments that may be made by other parties.

The Local Governments are pleased to participate in this proceeding and applaud the Commission's readiness to re-examine its regulations to determine whether they continue to serve useful purposes. It should be noted, however, that the Notice does not provide full notice and opportunity to comment in the sense required under the Administrative Procedures Act for regulatory actions.[2] If the Commission concludes that rules should be eliminated or revised, it will be necessary to provide public notice of the proposed changes and provide interested parties an opportunity to comment.

NATOA and its member communities made numerous filings in the original proceedings that gave rise to the rules under review. These comments, and those of other parties, contributed to the original rationales for the subject rules and should not be ignored in reviewing their continued applicability. The Local Governments incorporate these earlier filings by reference as part of the answer to the question of the continued need for each of the rules they will address in this proceeding.[3]

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whose needs and interests are complementary to those of NATOA's government members; vendors to local governments; and communications providers of all types of services to local governments. The Mt. Hood Cable Regulatory Commission is a governmental entity that administers cable franchise agreements in Multnomah County and the Cities of Fairview, Gresham, Portland, Troutdale and Wood Village, Oregon.

[2] *See* 5 U.S.C. § 553

[3] Comments of the National Association of Telecommunications Officers and Advisors, National League of Cities, United States Conference of Mayors and National Association of Counties, *Implementation of the Cable Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, MM Docket No. 92-259, filed January 4, 1993 ("1992 Rate Regulation Comments"); Reply Comments of the National Association of Telecommunications Officers and Advisors, National League of Cities, United States Conference of Mayors and National Association of Counties, *Implementation of the Cable Consumer Protection and Competition Act of 1992, Broadcast Signal Carriage Issues*, MM Docket No. 92-259, filed

Finally, these comments will of necessity focus on certain rules that are of central importance from the Local Governments' point of view. However, silence as to other rules listed in the Notice should not be assumed by the Commission to mean that the Local Governments consider all such rules dispensable. Given limited resources and the very broad scope of the Notice, the Local Governments have chosen to address themselves to a key subset of the rules at issue.

January 19, 1993 ("1992 Rate Regulation Reply Comments"); Comments of the National Association of Telecommunications Officers and Advisors, National League of Cities, United States Conference of Mayors and National Association of Counties, *Implementation of Section 8 of the Cable Television Consumer Protection and Competition Act of 1992, Consumer Protection and Customer Service*, MM Docket No. 92-263, filed January 11, 1993 ("Consumer Protection Comments"); Comments of the National Association of Telecommunications Offices and Advisors, the National League of Cities, the United States Conference of Mayors and the National Association of Counties, *In the Matter of Implementation of Sections 11 and 13 of the Cable Television Consumer Protection and Competition Act of 1992, Horizontal and Vertical Ownership Limits, Cross-Ownership Limitations and Anti-Trafficking Provisions*, MM Docket No. 92-264, filed February 9, 1993 and August 23, 1993 ("Ownership Comments"); Reply Comments of the National Association of Telecommunications Offices and Advisors, the National League of Cities, the United States Conference of Mayors and the National Association of Counties, *In the Matter of Implementation of Sections 11 and 13 of the Cable Television Consumer Protection and Competition Act of 1992, Horizontal and Vertical Ownership Limits, Cross-Ownership Limitations and Anti-Trafficking Provisions*, MM Docket No. 92-264, filed March 3, 1993 ("Ownership Reply Comments"); Anti-trafficking Petition for Reconsideration of the National Association of Telecommunications Offices and Advisors, the National League of Cities, the United States Conference of Mayors and the National Association of Counties filed September 7, 1993 ("Anti-Trafficking Petition"); Comments of the National Association of Telecommunications Officers and Advisors, the National League of Cities, and the Miami Valley Cable Council, *In the Matter of Revisions to Cable Television Rate Regulation,* MB Docket No. 02-144, MM Docket No. 92-266, MM Docket No. 93-215, CS Docket No. 94-28, CS Docket No. 96-157 (November 4, 2002) ("2002 Rate Regulation Comments"); Comments ACM/NATOA, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 04-227, filed July 23, 2004 ("Competition Report Comments"); ACM/NATOA Reply Comments, *In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming*, MB Docket No. 04-227 , filed Aug. 25, 2004 ("Competition Reply Comments").

II. THE REVIEW'S FOCUS ON "SMALL ENTITIES" IMPLIES INCREASED ATTENTION TO THE NEEDS OF CONSUMERS.

The Notice, citing to Section 610 of the Regulatory Flexibility Act ("RFA"), 5 U.S.C. § 610, states that its purpose is "to minimize any significant economic impact of such rules upon a substantial number of small entities." Notice at ¶ 1. This statement may suggest that the Commission assumes the primary effect of the review should be to reduce costs for communications companies. On the contrary, however, in today's communications market, a focus on small entities means that the Commission should consider changes that would make the rules more responsive to consumers, which may or may not equate to a reduction of costs for vendors.

Given the extensive consolidation of the last ten years, a far smaller portion of the communications market is now composed of "small entities" than was the case in 1993-1995 The RFA definition of a "small entity" relies on the definitions established for "small business" by the Small Business Administration. *See* 5 U.S.C. § 601(6). These definitions classify businesses as "small" based on the number of their employees or their annual receipts in millions of dollars. For example, to qualify as a small entity, a cable company must have no more than $12.5 million in annual receipts. A wired telecommunications carrier or cellular company may have no more than 1,500 employees.[4] Yet today fewer and fewer citizens are served by providers of this size. The companies remaining in these industry classifications are the winners of significant consolidation battles. The contemporary communications market contains relatively few vendors of the size that the RFA was intended to protect.

On the other hand, many of the "small entities" subject to the noticed rules are local governments. The RFA defines small governmental jurisdictions as "governments of cities,

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[4] 13 C.F.R. § 121.201

counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."[5] These local governments must also be considered in evaluating the impact of a rule under the RFA. The rules under review affect over 37,000 such small governmental entities.[6] Thus, the *predominant* consideration in the Commission's RFA review of its rules should be the effect on small communities. And a primary role of the local government in such a community is to protect its citizens from unreasonable or improper treatment by businesses – particularly businesses able to exercise some degree of market power. At the same time, however, customers of small entities should not be afforded less protection than customers of large entities. (For example, the needs of a given consumer in an emergency for which an emergency alert is required do not differ based upon the size of the entity providing service.) Thus, the Commission's review should keep always in mind the effects of its rules on consumers, whether those individuals are dealing with small businesses or with the very large businesses that make up most of the communications sector today.

III. EMERGENCY ALERT SYSTEM STANDARDS MUST BE UPHELD FOR SMALL COMMUNITIES AS WELL AS LARGE.

Starting at page 9 of the Notice and continuing for three pages, the Commission asks whether there is a continued need for specific Emergency Alert System ("EAS") rules, specifications and testing procedures. In fact there is a greater need today than in earlier years for standards, specifications and testing for emergency communications. Furthermore, the rules must be able to keep up with technological developments and the variety of communications systems now in use.

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[5] 5 U.S.C. § 601(5).

One need not look back to the devastation of September 11, 2001, as the sole justification for the expanded need for EAS. As these comments are being prepared, the City of New Orleans and its neighbors are coping with a natural disaster of extraordinary magnitude. These examples underline the general principle that both small communities and large must be able to rely on EAS alerts to play a role in coping with such events.

Thus, there is a continued, if not enhanced, need for EAS systems today. Yet it is easy to neglect EAS needs during quiet periods. An EAS is by definition a system that one needs only from time to time – but when it is needed, it is really necessary. Unless the Commission can determine that communications providers will have sufficient economic incentives to maintain EAS in good working order at all times without regulatory requirements, it will need to retain sufficient requirements to ensure that large and small communities' EAS will be ready to function in an emergency.

For these reasons, EAS rule changes should focus on the most effective and efficient ways to ensure EAS functionality, rather than on minimizing economic impacts to providers. This approach requires careful attention to the technical aspects of changing technologies. For example, as recently as August 2, 2005, NATOA leadership, accompanied by representatives from the National Cable & Telecommunications Association (NCTA), met with Commission staff to address specific technical questions regarding digital cable technology to be used to enhance warnings, and how digital cable provides the ability to provide enhanced emergency

[6] *See* U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau, 2002 Census of Governments, Vol. 1 Number 1, Government Organization GC02 (1)-1 at 7-10, Tables 6 and 7.

information to the public.[7] Such cooperative efforts should result in better and more effective rules.

The Commission must be wary of special exceptions for small businesses in this area. In an emergency, citizens and communities should not receive less protection simply because they are served by small entities. While the economic impact of regulations may legitimately be taken into account, the importance of the EAS to those suffering from extraordinary events must carry significant weight with the Commission.

IV. THE COMMISSION MUST RESPECT THE NEEDS OF CONSUMERS IN SMALL COMMUNITIES WITH RESPECT TO PART 76 ISSUES.

A. Program Access

As NATOA has noted in other proceedings,[8] cable operators are known to engage in a variety of anticompetitive tactics to thwart competition. The use of exclusive contracts to deny competitors access to essential content remains a significant problem and will threaten competition unless such exclusivity is controlled to prevent misuse.[9] The Commission should therefore retain its rules governing program access, as required by the Act. Further, as NATOA has previously noted, the Commission should launch a comprehensive inquiry to determine the extent, causes, and solutions to the anticompetitive tactics of incumbents and should exercise its full authority to eliminate such tactics.

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[7] *See* letter from Elizabeth Beaty, NATOA Executive Director, to Marlene H. Dortch, Secretary, in EB Docket No. 04-296, dated August 3, 2005.

[8] *See, e.g.*, ACM/NATOA Competition Report Comments, filed July 23, 2004; ACM/NATOA Competition Reply Comments, filed Aug. 25, 2004.

[9] ACM/NATOA Competition Report Comments at 20, filed July 23, 2004. *See also* Comments of American Cable Association at 3-6; Comments of Broadband Service Providers Association at 12-14; Comments of EchoStar at 10-13; Comments of National Telecommunications Cooperative Association at 3; Comments of RCN at 14.

In addition, NATOA and others have described problems relating to the "terrestrial loophole" in the Cable Act's program access provisions and the Commission's rules.[10] If the Commission believes it has insufficient authority to close this loophole, the Local Governments suggest that the Commission make a clear recommendation to Congress to do so.

B. Signal Carriage Obligations

NATOA was an active participant in the proceedings that resulted in adoption of 47 CFR §§ 76.56 and 76.61.[11] NATOA's primary goal was to ensure that public, educational and governmental ("PEG") channels were not sacrificed in the name of other "must obligations. The Local Governments reaffirm here the unique nature and importance of PEG channels and reemphasize that PEG should not be sacrificed to assist other programmers in achieving must-carry status.

In developing the Cable Act, which directed the FCC to craft a signal carriage obligation, Congress recognized the unique qualities of PEG. The 1984 House Report stated:

> Public access channels are often the video equivalent of the speaker's soap box or the electronic parallel to the printed leaflet. They provide groups and individuals who generally have not had access to the electronic media with the opportunity to become sources of information in the electronic marketplace of ideas. PEG channels also contribute to an informed citizenry by bringing local schools into the home, and by showing the public local government at work.[12]

The Commission's Chairman has also lauded the kind of localism that PEG programming enhances and promotes:

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[10] *Id.*

[11] 1992 Rate Regulation Comments, filed January 4, 1993 *See also* 1992 Regulation Reply Comments, filed January 19, 1993.

[12] H.R. Rep. No. 98-934, 98th Cong., 2d Sess. 30 (1984), reprinted in 1984 U.S.C.C.A.N. 4655, 4667.

> Fostering localism is one of the Commission's core missions and one of the three policy goals, along with diversity and competition, which have driven our radio and television broadcast regulation during the last 70 years.[13]

These concerns have been more recently enunciated in the comments of the Alliance for Community Media ("ACM") in MM Docket No. 04-233.[14] ACM pointed out that Congress' vision of PEG has become a reality in many communities. "[I]ndividuals from all walks of life now produce over one million hours of original, non-commercial, *local* programming each year. This is happening on cable systems from coast to coast, in large cities such as New York City and Chicago and in small communities such as Germantown, Tennessee and Monterey, California."[15] ACM reminded the Commission, however, that small access entities and small communities may have particular difficulty in preserving these programs in the face of increasing industry concentration: "The top three cable MSOs that currently control well over half (almost 40 million) of the cable subscribers in the U.S. – Comcast, Time Warner and Cox – have lengthy track records of actively and ardently opposing efforts by communities to adequately develop and support PEG Access operation."[16]

The Commission's § 610 review must consider the effect of its rules on small access entities and small communities, not merely the increasingly rare small cable operator. The Commission should thus, among other things, take no actions that might jeopardize the ability of

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[13] *In the Matter of Broadcast Localism*, MM Docket No. 04-233, FCC 04-129, Statement of Chairman Michael K. Powell to accompany release of Notice of Inquiry, released July 1, 2004.

[14] Comments of the Alliance for Community Media, *In the Matter of Broadcast Localism*, MM Docket No. 04-233, filed October 27, 2004.

[15] *Id.* at 3

[16] *Id.* at 5.

PEG programmers to be carried on the basic tier of cable programming and on an acceptable and accessible channel.[17]

C. Customer Service Obligations

In Section 76.309, the FCC established a minimum set of consumer protection standards for telephone availability, installations, service calls, and the like.[18] These standards have been implemented and enforced by local franchising authorities, including the kinds of small communities referred to above. Section 76.309 has been effective in ensuring minimum national standards for cable customer service for consumers served by both large and small operators.

The Notice asks whether 47 C.F.R. § 76.309 has a continued role to play in protecting consumers. The answer is yes. While competition is the best consumer protection mechanism, it will not necessarily prevent all abuses, particularly where a very limited set of providers choose to compete on grounds other than quality of service. And, contrary to popular belief, communities do not yet have meaningful or truly effective competition in the cable service arena.[19]

NATOA was an active participant in MM Docket No. 92-263, the proceeding resulted in adoption of Section 76.309.[20] NATOA asserted at that time, and the Local Governments continue to believe, that specific standards are needed to ensure adequate customer

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[17] *See* 47 C.F.R. § 76.57.

[18] The Cable Act expressly recognizes the authority of local governments to enact and enforce customer service standards for MVPDs. *See* 47 U.S.C. § 552(a). These provisions reflect the understanding of Congress that both local and national customer service standards are essential to protect consumers from poor service.

[19] The Government Accounting Office found in a case study that where actual wireline competition was present, customer service was improved. *See* U.S. General Accounting Office, *Wire-Based Competition Benefited Consumers in Selected Markets*, at 4, 13 (Feb. 2004).

[20] Consumer Prorection Comments, filed January 11, 1993, at 2.

service throughout the country regardless of the size of the cable operator serving the community. Moreover, small communities as well as large must be able to develop the standards necessary to target specific abuses and issues that may develop in particular communities.

The Notice indicates that the Commission will consider whether small entities have complained about a rule in determining whether that rule should be retained, amended or rescinded. The record already shows, however, that in this area such complaints have not been numerous. In 2002, dismissing a reconsideration petition filed by the National Cable & Telecommunications Association and a Small System Operators Coalition, the FCC found that in the nine years between the filing of the petition and the decision there was a noticeable lack of "objections put forth by petitioners."[21] Nor have such objections surfaced in large numbers since 2002.

D. Franchise Transfers

Cable franchises and local ordinances normally require cable companies, regardless of size, to obtain prior approval from the local franchising authority before transferring control of a local franchise or transferring the franchise itself.[22] Small communities, with more limited resources to devote to monitoring and enforcing franchise requirements, are particularly dependent on the ability to understand and control who owns their cable systems and what practical effects this change may have on the operation of those systems, in a market where increasingly large cable companies exercise increasingly centralized control over local operations. Thus, a community must have a reasonable opportunity to consider whether

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[21] *Implementation of Section 8 of the Cable Television Consumer Protection and Competition Act of 1992: Consumer Protection and Customer Service*, 17 FCC Rcd 11,916 (MM Docket No. 92-263) released June 24, 2002, at ¶ 1.

[22] *See generally Charter Communications, Inc. v. County of Santa Cruz*, 304 F.3d 927 (9th Cir. 2002).

approval of a proposed transfer is in the public interest, including a fair chance to resolve any outstanding performance problems or noncompliance issues.

Section 76.502 of the Commission's rules appears to require a cable operator to file a complete account of the proposed transaction in order to trigger the statutory 120-day deadline and to respond in good faith to the community's questions. In practice, however, cable operators have taken advantage of alleged ambiguities in the Commission's rules and forms to file patently incomplete transfer applications and to claim that communities have only thirty days to review these incomplete descriptions before they must raise issues and questions with the companies. The Commission should consider amending its rules to eliminate these loopholes and ensure that operators provide all the information a community has indicated to be necessary before commencing the 120-day review process, as the statute requires.[23]

The need for an orderly transfer process, regardless of the size of a community or its operator, is just as valid in 2005 as it was in 1993.

E. Horizontal and Vertical Cable Ownership Caps

The 1992 Cable Act directed the Commission to establish limits on the number of subscribers a cable operator may serve and on the number of channels a cable operator may devote to affiliated programming. The Commission created such limits as a means to foster competition and diversity in the video programming market. *See* 47 C.F.R. §§ 76.503, 76.504. These rules, however, were vacated in 2001, when the D.C. Circuit determined that the Commission's prior limits had not been adequately supported and that the Commission had not

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[23] Ownership Comments, filed February 9, 1993 and August 23, 1993; Ownership Reply Comments, filed September 7, 1993. There, NATOA and other representatives of local communities showed that franchise authorities must have a fair opportunity to approve or disapprove a cable franchisee's request to transfer the franchise. Local governments also showed that the blanket waiver for small systems contemplated in the Commission's initial order in the proceeding was contrary to the intent of Congress.

sufficiently considered changes in the multichannel video programming distribution market.[24] The Commission has initiated a new proceeding to reinstate the rules in a way that is consistent with the court's ruling.

It is not clear to the Local Governments why the pertinent rules, §§ 76.503 and 76.504, are listed in this proceeding. While they were adopted within the time frame outlined in the Notice, by definition neither would apply to a small business entity. Thus, the Local Governments do not see this review as significantly affecting the Commission's reconsideration of its ownership rules in the ongoing proceeding on that subject.

F. Cable Rate Regulation

NATOA has previously provided comments to the Commission on corrections and improvements to its rate regulation rules.[25] If anything, those comments showed that small communities were unreasonably disadvantaged by the expense and difficulty of enforcing the Commission's rules. Yet Congress intended cable rate rules to protect consumers of both large and small cable operators. The Local Governments incorporate their previous comments by reference and ask that the Commission implement the changes called for in those comments.

G. Effective Competition

NATOA's previous comments have also shown that the Commission's rulings have essentially gutted the effective competition provisions of the statute, to the detriment of consumers in both large and small communities. Moreover, they have undercut the ability of

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[24] *Time Warner v. FCC*, 240 F.3d 1126 (D.C. Cir. 2001).

[25] *See, e.g.*, 2002 Rate Regulation Comments, filed November 4, 2002.

small entities to compete with larger systems by prematurely unleashing incumbent MSOs to employ anticompetitive practices.[26]

The Cable Act and the FCC's implementing regulations (Section 76.905) relieve cable operators, both large and small, from a number of regulatory constraints in markets where "effective competition" exists. When a cable system is found to be subject to effective competition, not only is basic rate regulation eliminated, but so are the protections of anti-buy-through provisions, which prevent cable operators from forcing subscribers to buy service tiers other than basic to obtain additional programming, and of uniform rate provisions to ensure a common rate structure for all subscribers in a geographic area. In the absence of real competition, such premature action enables predatory conduct, leads to higher rates, and creates consumer frustration. This harms not only consumers, but also overbuild competitors, some of which may also meet the standard for small entities.[27] A premature finding of "effective competition" gives the MSO incumbent the unfettered ability to undercut a nascent small entity competitor with below-market predatory pricing and cross-system subsidies, stultifying competition and encouraging prices to return to monopoly levels.

The Local Governments refer the Commission to NATOA's previous comments with respect to the competition rules.

V. EQUAL EMPLOYMENT OPPORTUNTY REQUIREMENTS CANNOT BE DISPENSED WITH FOR SMALL BUSINESSES.

The Notice at 17 explains that under § 25.601, satellite services must comply with the equal employment opportunity ("EEO") requirements set forth in part 76 of the Commission's

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[26] *See* Competition Report Comments, filed July 23, 2004; 2002 Rate Regulation Comments, filed November 4, 2002, at pp. 26-36.

rules. Here the congressional mandate for EEO is instructive. In 1992 Congress not only recognized the importance of EEO policy goals for the nation, but also set a threshold for compliance at companies with five or more full-time employees, rather than the 150 employees referenced in the SBA's definition of a small business.[28] Thus, the Commission should be careful of claims that it should abandon EEO standards entirely for small businesses.

[27] NATOA has provided the Commission with examples of such predatory practices. *See* NATOA's 2004 comments cited in n.26 above.

[28] 47 U.S.C. § 554 (d)(3)(A) provides: "Such (FCC EEO) rules shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report" on its compliance with the EEO rules; *see* 47 C.F.R §§ 76.73, 76.75, 76.77.

VI. CONCLUSION

For the foregoing reasons, the Commission's rules outlined in the Notice should be retained or amended where necessary to protect consumers, particularly in small communities, and to address the defects identified by these comments and by NATOA's previous filings.

Respectfully submitted,

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September 1, 2005

CERTIFICATION PURSUANT TO 47 C.F.R. § 76.6(a)(4)

The below-signed signatory has read the foregoing Comments of the National Association of Telecommunications Officers and Advisors and Mt. Hood Cable Regulatory Commission, and, to the best of my knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and it is not interposed for any improper purpose.

Respectfully submitted,

Sept. 1, 2005
Date

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